



**Dominion Payroll**<sup>®</sup>  
*Empowering Your Business*

# HR COMPLIANCE UPDATE: OVERTIME RULING

## FREQUENTLY ASKED QUESTIONS

Below you'll find a compiled list of frequently asked questions (FAQs) to provide clarity on any remaining question you may have:

### FAQs

▶ **Is overtime based on 35 hours a week or 40 hours a week?**

The overtime threshold is based on the hours worked in excess of 40 hours within a 7 day workweek.

▶ **What are the benefits of being exempt vs non-exempt?**

The benefits of being exempt vs. non-exempt depend on factors such as pay structure, job autonomy, overtime eligibility, and labor protections. Exempt roles often offer greater flexibility and professional development opportunities, while non-exempt roles provide more immediate compensation for hours worked and stronger labor protections.

▶ **What is the best way to keep track of overtime hours if an employee is salaried non-exempt?**

The idea behind classifying employees as salaried non-exempt is that for the weeks where they work 40 hours or fewer, you can essentially issue the "regular weekly pay," without regard to the hours worked. However, this has a tendency to make both the employer and employees lackadaisical about tracking time worked. This pay classification still requires strict timekeeping, just as for all non-exempt employees, in order to determine if any overtime was worked in a workweek so you can pay accordingly.

In the event that there is a dispute, the burden of proof will be on the employer to prove that the employee was paid for all hours worked (including time and one-half for overtime), so they'll want to ensure that all their time is carefully tracked. This means making timekeeping entries when work begins and ends, as well as complying with – and tracking – any state-mandated meal or rest period requirements.

▶ **If you classify an employee as non-exempt, can you have a salary level below these thresholds, so long as you pay them for the overtime?**

Yes. If an employee is a salaried non-exempt employee that is receiving overtime pay at 1.5x their hourly rate, the salary would only have to meet the threshold of minimum wage.



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- ▶ **Can the employer place the burden on the employee to report overtime rather than them punching time every day?**

It is not recommended. If there is a dispute, the burden of proof will be on the employer to prove that the employee was paid for all hours worked. In the question posed, the employer would not have any documentation. The employer is obligated to pay the employee for actual hours worked regardless of whether they have fulfilled their timekeeping duties.

- ▶ **Should we have timecards for every pay period for every non-exempt employee (when thinking of if an audit were to happen)?**

Yes. Should an audit happen, the employer will want to be able to show that their payroll records for non-exempt employee match the corresponding timesheets for those pay periods.

- ▶ **Can isolved accommodate timekeeping for salary non-exempt employees?**

Yes, it is possible to classify non-exempt salaried employees in isolved.

Reach out to our Customer Support team at [customerservice@dominionpayroll.com](mailto:customerservice@dominionpayroll.com) for guidance on specific questions regarding your organization.

- ▶ **Who can I reach out to at Dominion Payroll for assistance?**

For our valued Dominion Payroll clients, assistance is just a call or email away!

Reach out to our Customer Support team at **804.355.3430** or via email at [customerservice@dominionpayroll.com](mailto:customerservice@dominionpayroll.com), and we'll gladly help you with any queries or concerns you may have.

If you're not yet a Dominion Payroll client or wish to learn more about our Boost HR service, don't hesitate to contact us at [marketing@dominionpayroll.com](mailto:marketing@dominionpayroll.com).

We're here to guide you every step of the way!